

1 V. James DeSimone, SBN 119668  
 Michael D. Seplow, SBN 150183  
 2 Courtney Abrams, SBN 265742  
 SCHONBRUN DESIMONE SEPLOW  
 3 HARRIS HOFFMAN & HARRISON, LLP  
 723 Ocean Front Walk  
 4 Venice, CA 90291  
 Telephone: (310) 396-0731  
 5 Facsimile: (310) 399-7040  
 VJDesimone@gmail.com  
 6 MSeplow@gmail.com  
 cabrams@sdshh.com

7 LAW OFFICES OF THOMAS W. FALVEY  
 8 Thomas W. Falvey, SBN 65744  
 J.D. Henderson, SBN 235767  
 9 301 North Lake Avenue, Suite 800  
 Pasadena, California 91101  
 10 Telephone: (626) 795-0205  
 thomaswfalvey@gmail.com

11 Attorneys for Plaintiffs

12  
 13 **UNITED STATES DISTRICT COURT**  
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 DUANE WATERS, DEBRA TURNER )  
 16 and RUDY FAJARDO, on behalf of )  
 themselves, all others similarly situated )  
 17 and the general public, )  
 18 Plaintiffs, )  
 19 vs. )  
 20 AT&T SERVICES, INC. (formerly SBC )  
 Services, Inc.) and DOES 1 through 10; )  
 21 Defendants. )

Case No: CV 09-3983 BZ

**SUPPLEMENTAL DECLARATION OF  
 MICHAEL D. SEFLOW IN SUPPORT OF  
 MOTION FOR FINAL APPROVAL OF  
 CLASS ACTION SETTLEMENT AND  
 MOTION FOR AWARD OF ATTORNEYS'  
 FEES, COSTS, CLAIMS  
 ADMINISTRATION EXPENSES AND  
 CLASS REPRESENTATIVE  
 ENHANCEMENTS**

**Date: February 9, 2011  
 Time: 10:00 a.m.  
 Courtroom: G**

22  
 23  
 24  
 25 **DECLARATION OF MICHAEL D. SEFLOW**

26 I, Michael D. Seplow declare as follows:

27 1. I am an attorney-at-law and a partner with the firm Schonbrun DeSimone Seplow  
 28

1 Harris Hoffman & Harrison LLP (“SDSHH”). I am duly admitted to practice before this  
2 Honorable Court and am one of the attorneys of record for Plaintiffs in this action. I have  
3 personal knowledge of the facts set forth herein, (except where indicated upon information and  
4 belief) and if called as a witness, could and would testify competently thereto. Along with my  
5 co-counsel V. James DeSimone, Thomas W. Falvey, and J.D. Henderson, I have been appointed  
6 class counsel in this matter, pursuant to this Court’s Order of September 13, 2010. This  
7 supplemental declaration is being made in support of the Motion for Final Approval of Class  
8 Action Settlement and the Motion for Award of Attorneys’ Fees, Costs, Claims Administration  
9 Expenses and Class Representative Enhancements. I have previously submitted two declarations  
10 in connection with the Motion for Preliminary Approval (dated July 15, 2010 and August 23,  
11 2010) as well as a declaration in support of the Motions for Final Approval of Class Action  
12 Settlement and for Award of Attorneys’ Fees, Costs, Claims Administration Expenses and Class  
13 Representative Enhancements (dated December 22, 2010) and the contents of those declarations  
14 are incorporated herein by reference.

15  
16 2. On December 22, 2010, Class Counsel filed a Motion for Final Approval of Class  
17 Action Settlement and a Motion for Award of Attorneys’ Fees, Costs, Claims Administration  
18 Expenses and Class Representative Enhancements, along with numerous declarations and related  
19 documents. All of the December 22, 2010 filings have been posted on my firm’s website  
20 ([www.sdshh.com](http://www.sdshh.com)) and have also been posted on co-counsel’s website ([www.falveylaw.com](http://www.falveylaw.com)).

21  
22 3. The deadline to submit claim forms, exclusions forms and to object to the terms  
23 of the Settlement was December 13, 2010. The deadline to file objections to the Motion for  
24 Award of Attorneys’ Fees, Costs, Claims Administration Expenses and Class Representative  
25 Enhancements was January 19, 2010 (21 days before the February 9, 2011 Final Fairness  
26 Hearing). To date, there have been no objections to either the Class Settlement or to the Motion  
27 for Award of Attorneys’ Fees, Costs, Claims Administration Expenses and Class Representative  
28 Enhancements.

1 4. According to information from the Claims Administrator, CPT Group, as of February  
2 4, 2011, a total of 570 valid claims have been received which represent 84.7% of the class  
3 members and accounts for 87.94% of the compensable workweeks. This includes three (3) late  
4 claims which Defendant AT&T Services has agreed to allow. There have been eight (8) valid  
5 opt-outs and no objections to the settlement. A copy of the CPT Report for this case from  
6 February 4, 2011 is attached hereto as Exhibit A.

7  
8 5. As of December 22, 2010, there were four (4) disputed claims concerning the  
9 number of compensable workweeks still pending. Since that time, Class counsel and defense  
10 counsel have been able to resolve all of these disputed claims. One of the disputes has been  
11 resolved in favor of the class member and this should result in an additional 116.9 work weeks  
12 being added to the above totals. The other disputes involved claims for additional workweeks by  
13 persons who worked for different AT&T entities during part of the class period. The parties  
14 agree that class members who have opted into this case have not waived any wage and hour  
15 claims they may have for the time periods they worked for entities other than Defendant AT&T  
16 Services.

17  
18 6. Class Counsel respectfully submit that consideration of numerous factors, including  
19 the excellent result obtained for the class, the outstanding participation rate among class  
20 members, and the fact that there have been no objections to the settlement or to the request for  
21 attorneys' fees, support the granting of the request for an attorneys' fee award of 30% of the total  
22 settlement amount. In light of the above, Class Counsel respectfully request that the Motion for  
23 Final Approval, and concurrently filed Motion for Attorneys' Fees and Costs be granted.

24 I declare under penalty of perjury that under the laws of the State of California and the  
25 United States of America that the foregoing is true and correct.

26 Executed this 4th of February, 2011 in Venice, California.

27   
28 \_\_\_\_\_  
Michael D. Seplow

# **EXHIBIT A**



**Class Action Administrators**

**Waters v AT&T Services**  
**Case No: 3:09-CV-03983 BZ**  
**As of: 2/4/2011**

Class Period: Aug 27, 2005 - Sep 13, 2010  
 Class Size: 673  
 Notices Mailed: Oct 14, 2010

Claim/Exclusion/Objection Deadline: Dec 13, 2010  
 Dispute Deadline: Nov 29, 2010  
 Final Approval Hearing: Feb 9, 2011

|  | Description                         | Count           |
|--|-------------------------------------|-----------------|
| <b>Mail</b>                                      | Items in Mailing List               | 673             |
|  | Notices Returned                    | 18              |
|  | Notices Traced                      | 14              |
|  | Notices Rемаiled*                   | 46              |
|  | Forwarded Notices                   | 4               |
|  | Requested Notices Mailed            | 34              |
|  | Notices Returned 2nd Time           | 4               |
|  | Undelivered Notices                 | 10              |
| Includes Requested Notices and Forwarded Notices |                                     |                 |
| <b>Claims</b>                                    | Responses Received                  | 681             |
|  | Opt Outs                            | 8               |
|  | Disputes                            | 2               |
|  | Deficient                           |                 |
|  | Late Claims                         |                 |
|  | Invalid                             | 103             |
|  | Valid Claims **                     | 570             |
| Includes Deficient, Disputed, and Late           |                                     |                 |
| <b>Class</b>                                     | Total Class Members in Mailing List | 673             |
|  | Total Valid Claimants               | 570             |
|  | % Valid Claims                      | 84.70 %         |
|  | Total Class Weeks                   | 94,540.40       |
|  | Total Valid Weeks Claimed           | 83,136.90       |
|  | % Weeks Claimed                     | 87.94 %         |
|  | Total Valid Amount Claimed          | \$10,323,916.81 |
|  | % Amount Claimed                    | 87.94 %         |

Distribution List: V. James DeSimone; Michael D. Seplow; Thomas W. Falvey; J.D. Henderson; Thomas E. Geidt  
 CPT Class Action Representatives: Julie Green; Jackie Hitomi; Alejandra Zarate; Abel Morales; Carole Lee

Please note these numbers and statistics are for your reference only and will change throughout the administration process. Final numbers and statistics shall be obtained from Case Manager once response deadlines have passed and all responses have been properly validated.